

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA**

UNITED STATES OF AMERICA,

v.

JOE DEWHURST,

Defendant.

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Docket No. 1:19-CR-120

COLLIER/STEGEER

**MOTION FOR RELEASE ON BOND DUE TO COVID DIAGNOSIS
& MEMORANDUM IN SUPPORT**

COMES NOW, the Defendant, Joe Dewhurst, by and through counsel, Bryan H. Hoss, and respectfully moves this Honorable Court to release the Defendant on bond due to his recent COVID diagnosis. The Defendant would show as follows:

1. On January 24, 2020, the Defendant filed a Motion for Bond Pending Sentencing as the Defendant had been released on bond since his initial arraignment. *See* ECF Doc. #136.
2. On January 29, 2020, the District Court conducted the Defendant's re-arraignment and the parties argued the Motion which the District Court denied.
3. The Defendant's original sentencing was set for June 17, 2020. *See* ECF Doc. #141.
4. On June 11, 2020, the Court continued that sentencing until June 24, 2020. *See* ECF Entry 6/11/20.
5. That new sentencing date conflicted with Counsel's schedule and he requested a brief continuance which this Court granted. *See* ECF Doc. #219, 220.

6. On Tuesday, June 23, 2020, Counsel learned that the Defendant had been diagnosed with COVID-19 while at the Bradley County Jail and was in quarantine. He apparently tested positive for COVID-19 on or about June 17, 2020.

7. Presently, his family reports to Counsel that while positive, he does not have severe symptoms of the disease.

8. On the date of this filing, the Court scheduled Mr. Dewhurst's sentencing for September 30, 2020.

9. On June 29, 2020, the US Marshall's advised counsel "there is no treatment available for asymptomatic inmates. Positive inmates are quarantined in a separate pod away from negative testing inmates. Major symptoms will be treated if they arise."

MEMORANDUM IN SUPPORT

On August 27, 2019, Joe Dewhurst was indicted for one count of engaging in a conspiracy to distribute and possess with intent to distribute 50 grams or more of methamphetamine (actual) and 500 grams or more of a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. § 841(a)(1), 841(b)(1)(A) and 846.

Because Mr. Dewhurst is entering a guilty plea to a drug offense charged under 21 U.S.C. §§ 841(a)(1), 841(b)(1)(B), detention is mandatory unless he can demonstrate exceptional reasons why his detention would not be appropriate. *See* 18 U.S.C. § 3143(a)(2) and §3145(c). The analysis of whether exceptional reasons exist is "quintessentially a fact intensive inquiry requiring a case by case analysis." *United States v. Goss*, 2015 WL 914708 (E.D. Tenn. March 3, 2015); *United States v. Christman*, 596 F.3d 870, 870 (6th Cir. 2010).

Mr. Dewhurst's recent diagnosis of COVID and continued incarceration place him at a great risk. The U.S. Marshall's has advised counsel that there is no treatment available for

asymptomatic individuals. Mr. Dewhurst is asymptomatic according to his family. Therefore, Mr. Dewhurst is receiving no treatment for his condition. Counsel is not a doctor, but of the 1000's of news reports, articles, journals and reports regarding COVID-19 since February, doing nothing has never been the approved choice within the medical community to combat this deadly disease. Respectfully, Counsel requests a hearing to determine whether there exist extraordinary reasons to justify Mr. Dewhurst's release.

Respectfully Submitted,

DAVIS & HOSS, P.C.

/s/Bryan H. Hoss

Bryan H. Hoss, TN BPR#021529

Davis & Hoss, P.C.

850 Fort Wood St

Chattanooga, Tennessee 37403

(423) 266-0605

(423) 266-0687 – FAX

CERTIFICATE OF SERVICE

I, Bryan H. Hoss, hereby certify that a true and accurate copy of the foregoing has been filed on the Court's electronic filing system and served to all parties.

On this the 29th day of June 2020.

/s/Bryan H. Hoss

Bryan H. Hoss